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Letter dated 30 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from China submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as China's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 28 June 2006 from the Permanent Representative of China to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to the letter dated 30 March 2006 from the Chairman of the Counter-Terrorism Committee, I have the honour to submit the fifth report of China pursuant to paragraph 6 of Security Council resolution 1373 (2001). The report also includes a section on China's implementation of Security Council resolution 1624 (2005) (see enclosure).

(*Signed*) **Wang** Guangya
Ambassador
Permanent Representative of China to the United Nations

Enclosure*

[Original: Chinese]

Fifth report by China on the implementation of Security Council resolution 1373 (2001)

June 2006

1. Implementation measures

Prevention and suppression of the financing of terrorist acts

1.1 Pursuant to paragraph 1(a) of resolution 1373 (2001), Member States should impose legal obligations requiring financial institutions, lawyers, real estate brokers, accountants, notaries and other professional intermediaries engaged in brokering activities to report suspicious transactions to the relevant authorities. China states in its fourth report (p. 11) that in order to combat money-laundering activities even more effectively, the Standing Committee of the National People's Congress has begun the work of drafting anti money-laundering legislation that will require professional intermediaries to report suspicious transactions. The Committee would appreciate a progress report on this matter and a copy of any newly adopted counter-terrorism legislation. Could China explain to the Committee the main changes made or envisaged through this reform?

The draft of the Law of the People's Republic of China on Anti-Money Laundering was completed in November 2005 and first deliberated by the Standing Committee of the 10th National People's Congress at its 21st meeting on 26 April, 2006. Chapter Three of the draft Law, on anti-money laundering obligations of financial institutions and certain non-financial institutions, requires financial and certain non-financial institutions to report suspicious transactions to financial intelligence units. Non-financial institutions in this category include specialized intermediary agencies such as real estate sales agencies, agencies engaged in precious-metal and jewellery transactions, auction agencies, pawn shops, law firms and accounting firms.

1.2 The Committee is aware of China's efforts to bring its criminal legislation into conformity with its international commitments in the area of counter-terrorism and would welcome a progress report on the draft law on combating terrorism of the Macao Special Administrative Region (SAR) (fourth report, p.12), including a copy of the new law if it has been adopted. Could China explain the main changes made or envisaged through this reform?

As stated in China's previous report, two new laws on terrorism and money laundering were being drafted by the Macao SAR in order to bring the Region's criminal legislation into conformity with China's international commitments in the area of counter-terrorism. In March 2006, both were approved and enacted as laws by the Legislative Assembly of the Macao SAR. However, as further implementing legislation was required, the legislative process was completed in April 2006 by

* Annexes are on file with the Secretariat and are available for consultation.

means of the adoption of an administrative regulation. Both laws take due account of the Macao SAR legal system, especially regarding the fundamental rights and freedoms guaranteed by the Basic Law.

Specifically, Law 3/2006 of 30 March 2006 is a new criminal law on the prevention and suppression of crimes of terrorism. Being a special criminal law, it takes precedence over ordinary criminal law, which nevertheless is still applicable supplementarily when not expressly repealed.

In fact, the core elements of Law 3/2006 are its redefinition of the criminal offences of terrorist organizations and of individual acts of terrorism provided for in articles 289 and 290 of the Macao Criminal Code (which were entirely repealed and superseded by articles 4 and 6 of the new law), and its definition of three new particular types of related activities, namely, those of "other terrorist organizations", "financing of terrorism", and "incitement to terrorism", as separate criminal offences, provided for and punished in articles 5, 7 and 8 of the new law, respectively.

Thus, from an international perspective, the most relevant features of this new law are the explicit inclusion of the transnational element in the specific motivation of the legal category of the "other terrorist organizations" offence, and implicitly in regard to individual acts of terrorism, by means of expressly establishing a possibility of correlation between the specific motivation of both types of criminal conduct, the reassertion of extra-territorial jurisdiction rules (article 3) and the introduction of liability for legal entities in regard to all the mentioned criminal offences (article 10).

Although the "terrorist organization" offence was defined as "any association of two or more persons acting in concert to impede, alter or subvert, by means of violence, the functioning of the political, economic or social system of the Macao SAR, to compel a public authority to do or to refrain from doing any act or to tolerate it, or to intimidate certain persons, group of persons or the population in general", and still operates with reference to the commission of other typified offences expressly listed in the same provision, it is important to stress that the list of those offences has been enlarged and their definition ameliorated. Also worth mentioning is the fact that the new criminal offence of "other terrorist organizations" is conceptually formulated in terms of protecting the integrity, independence and important interests of other States, regions and international public organizations.

Furthermore, the offence of financing of terrorism is defined as making available or collecting "funds with the purpose of financing, totally or partially, the commission of terrorism", without distinction of the nature of the terrorism. Some preventive measures to counter the financing of terrorism were also set up, by means of establishing in article 11 an operative reference to some of the provisions of the other new special criminal law on money laundering mentioned above (please see response to 1.4).

Unless otherwise specified under applicable international conventions, extra-territorial jurisdiction can be exercised in regard to criminal offences committed against other States and international public organizations whenever the perpetrator is found in the Macao SAR and it is not possible to surrender him to another territory or State.

Effective penalties range from imprisonment terms of 10 to 20 years for acts committed in support of terrorist organizations, and of 3 to 12 years (or with the penalty for the committed crime aggravated by one third in its minimum and maximum limits if that penalty is equal to or greater than 3 to 12 years' imprisonment) for individual acts of terrorism. The penalty for leading a terrorist organization is imprisonment of 12 to 20 years. If a terrorist organization and/or individuals who establish, direct, are members of, or support it, is/are found to be in possession of certain means, as for example nuclear energy, or weapons (conventional and/or of mass destruction), the penalty is also aggravated by one third in its minimum and maximum limits. Preparatory acts for the constitution of terrorist organizations and of individual acts of terrorism are also covered, being punished by effective imprisonment of 1 to 8 years and of 1 to 5 years respectively. Under the general provisions of the Criminal Code, aiding and abetting the commission of these offences are also punishable (articles 286, 26, 27 and 22 respectively).

Penalties for financing terrorism and incitement to terrorism are imprisonment terms of 1 to 8 years. However, if in certain cases, it is possible to subsume support of the terrorist organization and/or of other terrorist organizations (or even aiding and abetting) under the financing of terrorism, the applicable penalty may correspond to that those provided for such criminal offences if it exceeds 1 to 8 years.

For further details and as expressly requested by the Committee, a copy of Macao SAR Law 3/2006 in its official versions in Chinese and Portuguese languages as well as a non-official translation into English is attached hereto (annex 1).

1.3 The Committee would also like to receive an update on the status of the Hong Kong SAR's draft United Nations (Anti-Terrorism Measures) Ordinance (fourth report, p. 5), including a copy of the new law if it has been adopted. Could China explain the main changes made or envisaged through this new legislation?

The United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (the Amendment Ordinance) was enacted in the Hong Kong SAR in July 2004. It amended the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) to make additional provisions to cover the following:

Freezing non-financial property of terrorists and terrorist organizations

Paragraph 1(c) of United Nations Security Council resolution 1373 (2001) and the Financial Action Task Force on Money Laundering Special Recommendation III require freezing of funds and other assets of terrorists, terrorist associates and those who finance terrorism. The Amendment Ordinance extends the power of the Secretary for Security of the Hong Kong SAR to freeze terrorist funds under section 6 of Cap. 575 to cover non-financial terrorist property, and empowers the Secretary for Security to authorize seizure of the frozen property to prevent it from being removed from Hong Kong.

Law enforcement powers

To facilitate effective investigation into offences under Cap. 575, the Amendment Ordinance empowers law enforcement agencies in Hong Kong to require relevant persons to furnish information or to produce materials, to search premises and seize relevant materials, and to exchange relevant information with their overseas counterparts.

Implementation of the International Convention for the Suppression of Terrorist Bombings (the Bombings Convention), the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (the Maritime Safety Convention) and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the Fixed Platform Protocol) in Hong Kong

The amended Ordinance implements the Bombings Convention, the Maritime Safety Convention and the Fixed Platform Protocol in the Hong Kong SAR by designating as criminal offences terrorist-type attacks by means of explosives or other lethal devices and terrorist acts endangering the safety of maritime navigation and of fixed platforms, and by establishing extra-territorial jurisdiction over these offences.

1.4 In its second report (p. 8), China stated that the Government of the Macao SAR was considering whether the obligation to report the suspected diversion, conversion and concealment of illegal property should be extended to other professionals such as accountants, auditors, notaries and lawyers. What steps has the Macao SAR taken in that regard?

In this specific regard, and as noted above, another new special criminal law, Law 2/2006 of 23 March 2006 on the prevention and suppression of the crime of money laundering, was adopted in the Macao SAR. This law repealed the existing legislation on money laundering, namely Decree-Law 24/98/M, and the provisions on money laundering contained in Law 6/97/M, on organized crime. Nevertheless, as mentioned, parts of this new law are applicable, mutatis mutandis, in regard to the financing of terrorism, and this law was complemented by Administrative Regulation 7/2006. Until the entry into force of that Regulation, which will take place 180 days following its publication on 15 May 2006, Decree-Law 24/98/M is applicable transitionally.

Law 2/2006 not only extends the obligation to report transactions that may indicate money laundering to several other professions (entities and persons), such as lawyers, solicitors, notaries and public-registry officers, auditors, accountants and tax consultants, but also to transactions that may indicate the financing of terrorism. Likewise, by means of the aforementioned operative reference to this law contained in article 11 of Law 3/2006, all the existing new obligations regarding money laundering, such as those of customer and transaction identification, transaction refusal, record keeping, reporting suspicious operations, and collaboration with the authorities, were extended to the financing of terrorism (articles 6 and 7).

The obligations referred to are regulated in detail in accordance with article 8 (1) of this law by Administrative Regulation 7/2006, which also establishes the penalties for their violation and the necessary supervision.

Under this Administrative Regulation, the entities and persons subject to the obligations stipulated in the law are supervised by different authorities according to their type and nature. Those authorities are listed and it is within their competence to systematize the procedures for compliance with the obligations referred to through the issuance of guidelines. They must also inform the Prosecutor whenever they suspect the existence of money laundering and financing of terrorism.

Law 2/2006 defines the offence of money laundering as the conversion or transfer of advantages, or the assistance or facilitation of any such operation, for the purpose of disguising its illicit origin or of preventing the main perpetrator or participant in such crimes from being prosecuted or submitted to a criminal sanction, and the concealment or disguise of the true nature, source, location, disposition, movement, or ownership of such advantages, the notion of advantages being defined for the purpose of the law as "the assets derived from the commission, through any form of participation, of a typified act punishable with a penalty of imprisonment of a maximum term above 3 years, as well as any assets obtained therefrom" (article 3(1), (2) and (3)).

The effective penalty for the offence of money laundering is an imprisonment term of 2 to 8 years. Penalties aggravated by one half in their minimum and maximum limits are provided for cases in which: (i) the offence is committed by organized crime associations/secret societies or by persons who are members or supporters of such groups; (ii) the money laundering is of the proceeds of the predicated offences of terrorism, drug trafficking, international trafficking in human beings or in weapons and explosive substances; and (iii) the perpetrator is an habitual money laundering perpetrator. However the applicable penalty cannot exceed, in any case, the maximum limit of the penalty(ies) of the predicated offence(s) (article 3(2), (3), (6), (7) and article 4).

Legal entities' criminal liability is also provided for (article 5). Moreover, the law stipulates the exercise of extra-territorial jurisdiction over the offence of money laundering when its predicated offence was carried out outside the Macao SAR, provided that the referred predicated offence is also punishable under the law of the State or region with jurisdiction over that offence (article 3(4)).

Violation of the obligations imposed by the law is an administrative offence punishable by fines ranging from 10,000 patacas to 500,000 patacas for natural persons and from 100,000 patacas to 5,000,000 patacas for legal entities. Whenever the economic benefit for the offender is more than half of the maximum fine, the maximum fine shall be increased to double the amount of the obtained benefit. Negligence is also punishable.

For further details, a copy of Macao SAR Law 2/2006 and Administrative Regulation 7/2006 in their official versions in the Chinese and Portuguese languages as well as their non-official translation into English are attached hereto (annex 2).

1.5 The Committee takes note of the information and statistics provided by China with regard to the submission of suspicious transaction reports (STRs) by financial institutions (fourth report, p.13). In order to assess the effectiveness of the financial system, the Committee would welcome updated information on the number of STRs received by China's financial intelligence units since the submission of the last report, the number of investigations and

prosecutions initiated as a result of these reports and the outcome thereof as well as the laws and regulations which provided a basis for this action.

Between August 2004 and December 2005, a total 283,400 suspicious transactions were reported to China's financial intelligence units. The People's Bank of China transferred about 1,500 suspected money laundering cases to the public security authorities. The relevant laws and regulations include the Law of the People's Republic of China on the People's Bank of China, Regulations on the Transfer of Suspected Criminal Cases by Administrative Law Enforcement Organs, Rules for Anti-Money Laundering by Financial Institutions, Administrative Rules for the Reporting by Financial Institutions of Large-value and Suspicious RMB Payment Transactions, and Administrative Rules for the Reporting by Financial Institutions of Large-Value and Suspicious Foreign Exchange Transactions.

In the Hong Kong SAR, Section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and section 25A of the Organized and Serious Crimes Ordinance (Cap. 455) require a person who knows or suspects that any property is terrorist property, or the proceeds of drug trafficking or an indictable offence, to disclose such information to the law enforcement agencies in Hong Kong. The Hong Kong SAR Government's Joint Financial Intelligence Unit received, in 2004 and 2005, respectively, 14,029 and 13,505 STRs. The details are tabulated as follows:

STRs	*2004*	*2005*
From banks	13,570	12,449
From the insurance sector	144	560
From money remittance/transfer services/exchange agents	132	268
From other financial intermediaries and other sectors	183	228

Out of the total reports in 2004 and 2005, 1,039 and 663 respectively were further investigated, 40 and 58 persons respectively were prosecuted and among them, 21 and 17 respectively were convicted of money laundering offences. There were no terrorism-related offences among these cases.

1.6. The Committee would like to know whether China's FIUs (including those of the Hong Kong and Macao SARs) have signed any agreements or memorandums of understandings on sharing information with foreign FIUs.

To date, China has signed anti-money laundering information exchange agreements and memorandums of understanding with Georgia, the Republic of Korea and the Russian Federation.

In 2005, the Hong Kong SAR Government signed two memorandums of understanding with the FIUs of Australia and the Republic of Korea respectively on the sharing of information.

The Macao SAR Government is preparing to establish a Financial Intelligence Unit in the Region. Furthermore, article 8(2) of the above-mentioned Law 2/2006 establishes that the competence to collect, analyze and provide information on compliance with the obligations set forth in article 7(1) of that law is to be conferred

on an entity to be created or that already exists. Paragraph 3 of article 8 lists the powers that such entity is to have for the exercise of its functions. Article 7 of Administrative Regulation 7/2006 stipulates the obligation of reporting to that entity all suspicious transactions within two working days after they were carried out; pending the concrete definition of that entity, such reports are submitted to the Judiciary Police.

A working group (consisting of representatives from several Macao SAR Government entities and departments) is studying the mechanisms for dealing with this issue. In this context, it should be recalled that the Macao SAR is a full member of the Asia-Pacific Group on Money Laundering (APG); the working group is therefore also studying better ways to comply with the Financial Action Task Force on Money Laundering (FATF)'s Forty Recommendations on the Control of Money Laundering and Nine Special Recommendations on Terrorist Financing.

1.7 With regard to the freezing and seizure of funds, the Committee would like to know under what circumstances China's criminal law permits the confiscation of terrorist funds without prior identification, prosecution or conviction of any individual terrorist. Is there a procedure according to which the Chinese authorities are able to freeze assets at the request of another State? What is the standard of proof needed to establish a link between the funds and the terrorist group or activity in question?

Under the Criminal Law of the People's Republic of China, terrorist funds are confiscated after the criminal suspect in question is convicted and the court rules that his or her assets be confiscated. According to provisions on criminal judicial assistance in the relevant laws and regulations of China and the treaties China has signed with other countries on criminal judicial assistance, other countries may request criminal judicial assistance from China on crime information investigation and evidence collection.

The Committee would also welcome further information on the following points:

- **In its fourth report (p. 21), China states that "the Government of the Macao SAR is currently reviewing the need for supplementary regulations from the technical and policy standpoints, with a view to further standardizing the task of freezing assets". Have there been any new developments on this matter?**

Having conducted a comparative law study, the Macao SAR Government has concluded that the existing legislation is adequate for meeting its needs in this regard.

- **In its fourth report (p. 19), China notes that the draft United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), submitted to the Legislative Council of the Hong Kong SAR in May 2003, if adopted, would authorize the Secretary for Security to freeze the funds of terrorists and persons connected with terrorists, regardless of their origin. Has this draft Ordinance been adopted?**

The United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 was enacted in the Hong Kong SAR in July 2004. Please refer to the response to 1.3 above.

1.8 Could China inform the Committee of its efforts to ensure that casinos operating in the Macao SAR are not used for money laundering and the financing of terrorism?

With the adoption of the above-mentioned new Laws 2/2006 and 3/2006 and Administrative Regulation 7/2006, the Macao SAR has reinforced and updated the tools at its disposal to effectively fight money laundering and financing of terrorism, including within the gaming industry sector.

Taking into consideration the current conditions of the Macao SAR and its legal system, the two Laws and the Administrative Regulation were devised in order to achieve effective compliance with the mandatory requirements of applicable international treaties and instruments, as well as with international standards and practices commonly accepted worldwide, and in particular the FATF's Forty Recommendations and Nine Special Recommendations. The Macao SAR Government is making its best effort to establish the necessary measures, legislative, administrative or otherwise, for their implementation. One such measure was the confirmation, in a law on the Judiciary Police passed by the legislature on 30 May 2006, of the establishment of an additional department for anti-money laundering crimes investigation, specializing in the follow-up of money-laundering and similar crimes.

The gaming industry sector was carefully addressed in Law 2/2006. In so far as money laundering is concerned, both casino operators and gaming promoters — also known as junket promoters — are subject to the supervision of the Macao SAR Gaming Inspection and Coordination Bureau. Among the obligations specified in the law are requirements for them to: (i) identify their patrons whenever there is a suspicion that money laundering is occurring or whenever large money transactions are taking place (the precise threshold will soon be determined through guidelines to be issued by the Macao SAR Government competent authority(ties)); (ii) refuse any transaction involving participants who cannot be identified; (iii) report any suspicious transaction to the relevant Government authorities; (iv) keep all records for a reasonable period of time; and (v) refrain from informing the patron that suspicious transaction reports are being sent to the competent Government authorities (prohibition of disclosure).

Effectiveness of counter-terrorism measures

1.9 In order effectively to implement resolution 1373 (2001), the State should have in place effective and coordinated executive machinery and should develop and implement adequate national and international counter-terrorism strategies. Please explain how China's counter-terrorism strategy and policy deal with the following forms of counter terrorist activity:

- **Criminal investigation and prosecution;**
- **Inter-agency cooperation;**
- **Physical protection of potential terrorist targets;**
- **Strategic analysis and forecasting of emerging threats;**
- **Analyses of the efficiency and effectiveness of counter-terrorism legislation and relevant legislative amendments;**

- **Border and immigration controls; and**
- **Monitoring and prevention of trafficking in drugs, weapons, ammunition and explosives.**

The Committee would appreciate an outline of China's legislation, administrative procedures and best practices in these areas.

In the area of counter-terrorism, criminal investigation and prosecution are conducted in accordance with Criminal Procedure Law of the People's Republic of China.

Preventing and combating illegal migration

1. *Legislation*

Legislation to prevent and combat illegal migration is high on the agenda of the Chinese Government. China has stepped up the pace of relevant legislation in recent years in response to the activities of illegal migration in some areas. It has improved the legal framework for preventing and combating those activities by enacting a number of laws and regulations in this regard.

(1) Legislation to combat illegal migration has gradually been improved. In March 1994, the Chinese Government enacted the Supplementary Provisions of the Standing Committee of the National People's Congress on the Severe Punishment of the Crimes of Organizing or Transporting Other Person(s) to Illegally Cross the National Border (Frontier). In March 1997, the Chinese Government revised the Criminal Law of the People's Republic of China. The amended Criminal Law, which came into effect in October of that year, has an additional six articles, listing eight types of crime in this category, such as crossing the national border (frontier) illegally, organizing and transporting other person(s) to cross the national border (frontier) illegally, and assisting in such organization and transportation. It stipulates that those who illegally cross the national border (frontier) under aggravated circumstances are to be held criminally liable. It also has clear stipulations regarding acts of organizing and transporting other person(s) to cross the national border (frontier) illegally and of fraudulently obtaining travel documents for other person(s), providing counterfeit or altered travel documents, and selling travel documents, and provides for their severe punishment. This amended Criminal Law serves as a sound legal basis for combating illegal migration. articles 61 and 62 of the Law of the People's Republic of China on Administrative Penalties for Public Security, enacted on 1 March 2006, has clear provisions on the punishments to be imposed for assisting in the illegal organization or transportation of other person(s) across the national border (frontier), providing facilities for those who cross the national border (frontier) illegally and crossing the national border (frontier) illegally, when such acts do not rise to the level of criminality.

(2) Laws and regulations on entry-exit and border control have been strengthened. In November 1985, the Chinese Government enacted the Law of the People's Republic of China on Control of the Entry and Exit of Aliens and the Law of the People's Republic of China on the Control of the Exit and Entry of Citizens, providing a legal framework for the entry and exit of Chinese citizens and the entry into, exit from, transit through and residence in China of aliens. In September 1995, the Regulations of the People's Republic of China on Exit and Entry Frontier Inspection were introduced, giving clear provisions with regard to foreign citizens'

border entry, exit and transit and their residence and travel in China, as well as Chinese citizens' border exit on non-official business trips and their entry into and exit from China, and providing for punishment for violations of exit and entry control laws and regulations. The foregoing three laws are now being amended. The Nationality Law of the People's Republic of China, enacted by the Chinese Government in September 1980, sets clear conditions for the acquisition, restoration and renunciation of Chinese nationality and stipulates that the Chinese Government does not recognize dual nationality for any Chinese national. Such stipulations resolve the long-standing issue of dual citizenship and avoid, to a great extent, the occurrence of conflicting nationalities. The Chinese Government also gives high priority to legislation on border control. In May 2000, the Ministry of Public Security introduced the Measures on the Management of Ships in Coastal Areas to standardize border control along the coasts. In addition, the People's Congresses in border and coastal provinces and autonomous regions have drafted and enacted coast and border control regulations in accordance with national laws and regulations and in combination with their local conditions, further contributing to efforts to prevent and combat illegal migration.

China has now established the basic legal framework for curbing illegal migration through a combination of criminal laws and administrative regulations, providing a powerful legal instrument for preventing and combating illegal migration.

2. *Implementation*

The police of China have adopted comprehensive measures to strengthen the prevention, management and control of illegal migration. Efforts to investigate and dispose of relevant cases have been stepped up, and those organizing and transporting other person(s) across the national border illegally have been arrested and punished, thus effectively curbing the spread of human smuggling in all forms. In September 2003, the State Council held a special meeting to discuss and plan for the fight against illegal migration. The Ministry of Public Security launched a five-month nationwide campaign against human smuggling from October 2003 to March 2004, which greatly deterred such crimes. Statistics show that from 1999 to 2005, border agencies of the public security departments investigated and handled 7,693 cases of human smuggling, involving 27,480 persons. Among those involved, 4,847 persons who organized and transported other person(s) across the national border illegally were arrested, and 1,196 ringleaders of organized human smuggling were sentenced, of whom eight Chinese and foreign ringleaders were sentenced to life imprisonment. The arrested are handled in a differentiated manner according to their respective roles in the crime. For those who engage in human smuggling for the first time, education takes precedence and punishment is meted out as a necessary supplement. Recidivists face criminal charges in accordance with law, and those who organize and transport other person(s) across the national border illegally are firmly put under criminal prosecution according to law. In Fujian, Liaoning and Shandong provinces, new border-control detention and investigation centres have been established and equipped with daily necessities, entertainment facilities and closed-circuit monitors to ensure a good environment for living and study for these illegal border crossers during detention. Those under detention are obliged to receive education in law to improve their legal awareness. The centres also have exhibition facilities designed to reveal the horrendous crimes of ringleaders of organized human smuggling and the bitter suffering of the illegal emigrants. These

efforts have achieved publicity and educational goals and have received positive assessments by visiting delegations from many countries.

3. *Effective measures taken*

First: tightened control of coastal border areas. The border agencies of the public security departments have intensified border security through stronger prevention and management measures and by improving the management of outgoing ships, fishermen and incoming and docking fishing boats from Taiwan. Such efforts have effectively prevented Chinese citizens from illegally leaving China and foreign citizens from illegally entering China via the coastal borders.

Second: intensified entry and exit port inspection. Border checkpoints around the country have strengthened border inspection by focusing on fraudulent documents and cargo containers. Some border checkpoints have also tightened examination of containers on key shipping routes by sealing and labelling containers for anti-illegal migration purposes. The measures have effectively suppressed the use of containers for human smuggling.

Third: special crackdown campaigns and operations. Under the auspices of the State Council, the Ministry of Public Security launched a five-month special campaign from 10 October 2003 to 10 March 2004 to crack down on illegal border crossing activities. In March 2004, the Ministry of Public Security and six other ministries jointly launched Operation "Spring Thunder" to crack down on illegal intermediary agencies and illegal border crossing activities in the guise of labour services. At the same time, special campaigns and intensified administrative operations were launched nationwide.

Fourth: expanded case investigations. The scope of case investigations has been expanded in all localities; several major cases of illegal border crossing have been cracked, a number of organizations and criminal gangs engaged in human smuggling have been smashed, and those who organized and transported other person(s) across the national border illegally have been sentenced according to law.

Fifth: comprehensive and coordinated measures to crack down on illegal border crossing activities. In June 2004, the Central Committee for Comprehensive Management of Public Security sent out a circular, asking the committees for comprehensive management of public security at all levels in China to integrate anti-illegal border crossing operations into the comprehensive management mechanism of public security. As a result, Fujian, Liaoning, Jilin and other provinces adopted regulations and methods to include anti-illegal border crossing operations into their comprehensive management of public security, thus creating favourable conditions for combating illegal border crossing, under which the Government plays the leadership role, functional departments carry out their respective duties and the general public participates actively.

Sixth: active participation in international law-enforcement cooperation. The Chinese police see great value in international law-enforcement cooperation, and have signed treaties, agreements and memorandums with over 40 countries on cooperation in cracking down on illegal migration. They joined the competent departments of other countries for active and timely exchanges of intelligence and information on illegal migration and in investigating and dealing with individual cases. They went to the countries concerned to investigate cases and collect evidence, and engaged in international cooperation to seize international ringleaders

and flush out the masterminds of illegal migration. China also attended meetings of the International Criminal Police Organization (Interpol) "Operation Bridge" on illegal migration, meetings of international frontier police, and meetings of senior officials in the Asia-Pacific region on cracking down on human smuggling and illegal migration, in order to strengthen exchange and consultation with relevant countries and international organizations.

Monitoring and preventing the smuggling of drugs, weapons, ammunition and explosives

China Customs has an efficient and meticulous supervision system targeting a variety of dangerous goods, poisonous chemicals, firearms, and ammunition, to strictly prevent any articles which could be used for terrorism from entering or leaving Chinese territory. Since 2003, Customs authorities have detected 12 cases of weapons and ammunition smuggling, conducted criminal coercive measures against 13 suspects, and seized 190 firearms of all kinds and 3,097 bullets.

Criminalization and the criminal process

1.10 Are there any specific counter-terrorism measures aimed at criminal proceedings? Do special procedures apply to persons accused of terrorist offences during the arrest, detention and trial phases?

China has not set up special criminal proceedings on combating terrorist activities. This is one of the issues being studied as part of the process of drafting China's Anti-terrorism Law.

1.11 Is there a witness protection programme in place in China? If so, please describe any special features of that programme which apply to cases involving terrorism.

There is a witness protection programme in place in China. However, a specific witness protection programme which applies to cases involving terrorism is an issue being studied as part of the process of drafting China's Anti-terrorism Law.

Migration controls

1.12 Does China permit legal name changes without prior residency? If so, is some form of verification, such as fingerprinting or photographing individuals in their old identities, performed before new identity documents are issued?

As stipulated in the Regulations of the People's Republic of China on Residence Registration, Chinese citizens wishing to change their names must apply in person to the residence registration authority; names can be changed only after verification by the residence registration authority. The residence registration organs in China are the People's Committees at the town and township levels and the local police stations. Chinese citizens wanting to change their names on their passports must first apply to the local residence registration authority; upon approval, they must then apply to the exit and entry management department of the local public security organ having jurisdiction over their residence and show their residence registration records, on which the prior name change has been noted. Upon approval by the exit and entry management department of the local public security organ, the name change will be registered accordingly.

1.13 Pursuant to paragraph 2(c) and (g) of resolution 1373 (2001), the State should ensure the enforcement of effective immigration, customs and border controls in order to prevent the movement of terrorists, the establishment of safe havens and the commission of terrorists acts. The Committee would be grateful to receive details regarding:

- The extent of cooperation and coordination between the different agencies with border control responsibilities, including the modalities and tools used and examples of the results of any joint activity;
- The monitoring strategies and methods used to protect shipments entering and exiting China's territory, using all modes of transport, from acts of terrorism, and steps taken or envisaged with a view to implementation of the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade; and
- The mechanism and safeguards in place to detect and prevent the movement of terrorists across State borders at crossing where there is no official monitoring.

In June 2005, to cope with the challenge of securing and facilitating the international trade supply chain, the 105th/106th Council Sessions of the World Customs Organization (WCO) endorsed the Framework of Standards to Secure and Facilitate Global Trade (hereinafter "the Framework"). During the Sessions, China Customs signed a Letter of Intent to implement the Framework.

Since signing the letter of intent, China Customs has devoted special effort to publicizing and studying it. In accordance with the capacity-building programme drawn up by WCO for implementing the Framework, China Customs will participate in and promote its execution step by step, in order to improve Customs work efficiency and effectiveness.

The Hong Kong SAR Government is an associate member of the International Maritime Organization (IMO) and a contracting Government to the International Convention for the Safety of Life at Sea (SOLAS), 1974. It is fully committed to implementing the security measures for ships and port facilities adopted by the IMO in the context of the International Ship and Port Facility Security Code (ISPS Code), which was adopted by the SOLAS Conference in December 2002 and implemented on 1 July 2004.

Hong Kong Customs regularly works with the international law enforcement community and the stakeholders to secure the global supply chain and facilitate trade. In November 2005, Hong Kong Customs delivered to the World Customs Organization a written declaration of its intention to implement the Framework.

Hong Kong Customs benchmarks its risk assessments and intelligence analysis against the best practices in the international customs community, and strives to enhance its risk management capacity to combat terrorism and smuggling. It is equipped with automated systems to process cargo data/manifests for air, water and rail shipments to facilitate the targeting of high risk shipments. The Department also invests resources in non-intrusive equipment to protect shipments using speedy and prudent inspections.

Hong Kong Customs exchanges information with law enforcement agencies at the domestic and international levels and collect intelligence on all fronts to ensure that shipments enter and leave Hong Kong safely.

Effectiveness of international cooperation in criminal matters

1.14 Could China outline its principal domestic legal procedures for cooperation with other States in the areas of extradition and mutual legal assistance? Does the Government of the Hong Kong SAR have the authority to extradite terrorists in the absence of a formal agreement with the requesting State?

Cooperation between China and foreign countries in the area of extradition is conducted in accordance with extradition treaties, or on the basis of equality and reciprocity. In the absence of treaties, extradition is to be conducted through diplomatic channels, and the Ministry of Foreign Affairs of the People's Republic of China is the communicating authority thereof. Procedures for submission of extradition requests to China by foreign countries, and to foreign countries by China, are specified in Chapters II and III of the Extradition Law of the People's Republic of China (see annex 3).

Mutual legal assistance between China and foreign countries is conducted in accordance with treaties, or on the basis of equality and reciprocity. In the absence of treaties, mutual legal assistance is to be conducted through diplomatic channels. The specific procedures are as follows:

(1) *Requests made to the People's Republic of China for mutual legal assistance*

In the absence of bilateral treaties, a promise of reciprocity is required from the requesting party. After a preliminary examination by the Ministry of Foreign Affairs, the request will be transmitted to the Ministry of Justice, the Ministry of Public Security, the Supreme People's Procuratorate or other competent authorities according to specific situations. The relevant authorities will execute the request in a timely manner and transmit the result to the Ministry of Foreign Affairs. The Ministry of Foreign Affairs will then transmit the result to the requesting party.

(2) *Requests made to foreign States for mutual legal assistance*

A letter of request and relevant documents from the administrative department concerned will be submitted to the Ministry of Foreign Affairs. The Ministry of Foreign Affairs will then send a diplomatic note to the State to which the request is being made, with a promise of reciprocity. The result of the request, as communicated through diplomatic channels, will be transmitted by the Ministry of Foreign Affairs to the competent authority that made the request.

The extradition regime in the Hong Kong SAR is governed by the Fugitive Offenders Ordinance (Cap. 503). Cap. 503 enables Hong Kong to surrender terrorists who have committed criminal offences to an overseas jurisdiction on the basis of a bilateral agreement concluded between the Hong Kong SAR and that jurisdiction. The Hong Kong SAR Government is taking steps to draw up the necessary subsidiary legislation under Cap. 503 to implement the extradition requirements set out in the Bombings Convention, the Maritime Safety Convention and the Fixed Platform Protocol. The subsidiary legislation will enable the Hong Kong SAR to surrender fugitives who have committed the terrorist offences proscribed by the two Conventions and the Protocol to overseas jurisdictions which are parties to the Conventions and Protocol.

1.15 Could China provide information as to the number of extradition agreements that it has concluded with other States?

To date, China has concluded 26 treaties on extradition with the following foreign countries: Angola, Azerbaijan, Brazil, Belarus, Bulgaria, Cambodia, Kazakhstan, Kyrgyzstan, Laos, Lesotho, Lithuania, Mongolia, Namibia, Pakistan, the Philippines, Peru, the Republic of Korea, Romania, Russian Federation, South Africa, Spain, Thailand, Tunisia, Ukraine, the United Arab Emirates, and Uzbekistan.

Port Security

1.16 In the context of the measures established in the International Maritime Organization (IMO) International Ship and Port Facility Security Code (ISPS):

A. The Committee would welcome information on the measures that China has implemented in order to prevent unauthorized access to port facilities and to ships moored at such facilities.

Regular patrols and inspections by security personnel to prevent unauthorized persons or vessels from entering ports; surveillance of moored ships by means of sea and land patrols and CCTV; increased communication and cooperation with local public-security, maritime, border inspection, and customs authorities, as well as pilot stations and tugboat companies, with signing of agreements on security issues, as appropriate.

B. What safeguards has China put in place in order to verify the integrity of staff employed at port facilities and on board ships, both upon hiring and during employment?

Port-facility security training for port facilities staff prior to employment; use of non-transferable identification documents for port entry and exit. Loss of document must be reported to the department in charge of port facility security before a new document can be issued. Document must be surrendered to the port facility at end of employment. Information on port facility security is not to be leaked to unauthorized persons; staff engaged in port facility security wear uniforms with clear security insignia.

C. The Committee would be interested to learn the measures that China has put in place to respond to threats to, or breaches of, the security of port facilities and ship/port interfaces.

Regular inspection and maintenance to ensure that port security facilities and equipment are in good working condition; establishment of appropriate procedures for port facility security emergency response according to the type, function, and production technology of the port facility and the requirements of the ISPS Code, covering the following substantive areas:

(1) Procedure for handling explosive devices;

(2) Procedure for dealing with explosive attacks on docked container ships;

(3) Procedure for dealing with incidents of arson and vandalism;

(4) Personnel evacuation procedure.

Other emergency response procedures include:

(1) Procedure for responding to level-3 security directives issued by the Ministry of Communications;

(2) Procedure for coordinating with port security activities;

(3) Procedure for responding to the security alarm system for shipping within the port facility;

(4) Procedures for facilitating shore visits by crew members, personnel changes, and access to ships for visitors;

(5) Procedures and security measures for handling ship/port interface activities involving ships that have docked at ports in non-contracting countries, or ships that do not apply the ISPS Code.

D. The Committee would appreciate information on the drills carried out by China in order to test the effectiveness of security measures at port facilities and on the outcome of such drills.

Competent transport (port) authorities at all levels should carry out security drills at least once every six months; the interval between two drills may not exceed 18 months. Bodies responsible for organizing drills may be established on the basis of the size of the drills, and include groups for comprehensive coordination, public security and protection, project emergency response, medical assistance, information submission, material support, transportation, environmental management, fire-fighting control, and investigation and assessment. Drill organizers should draw up plans in cooperation with relevant bodies before drills. Drills may be conducted in three modes: training, testing, and combat-simulation, and should be evaluated upon completion; written reports should be submitted and records kept of the results. Port facility managers have raised their awareness through such drills and have taken effective measures to improve port facility security. However, some problems remain, e.g. outdated facilities and lack of expertise among staff.

1.17 Regarding the importance of identifying high-risk containers, the Committee takes note of the information provided by China and would appreciate an update on China's cooperation with the United States of America on the Container Security Initiative (CSI).

Following consultation and negotiation with the United States, China began operating a CSI pilot programme in Shanghai on 15th April 2005 and in Shenzhen on 27th June 2005.

Aviation Security

1.18 Pursuant to paragraph 2 of resolution 1373 (2001), States should prevent the movement of terrorists and the establishment of safe havens. The Committee notes that "the Hong Kong Immigration department has made preparations to participate in the advance Passenger Information system of the Asia-Pacific Economic Organization" (fourth report, p. 30). The Committee would like to receive an update on the outcome of these efforts. Have mainland China and the Macao SAR introduced this System?

In support of the Asia-Pacific Economic Cooperation initiative to develop an Advanced Passenger Information system, the Hong Kong Immigration Department introduced a pilot Advanced Passenger Processing Scheme jointly with a locally based airline beginning on 21 November 2005. The pilot phase, carried out in stages, is expected to last for 18 months. Under the Scheme, participating airlines are required to transmit data on arriving passengers, collected at check-in at the port of embarkation, to the Hong Kong Immigration Department. By processing passenger data in advance, immigration control can be affected proactively to identify suspicious passengers and facilitate appropriate actions. Cooperation from more airlines is being enlisted in order to extend the Scheme. A review will be conducted to evaluate the effectiveness of the Scheme before deciding whether and how to extend its coverage.

Neither the Macao SAR nor mainland China is yet participating in this System.

1.19 Does China intend to make contributions to the International Civil Aviation Organization (ICAO) Plan of Action to strengthen aviation security, including through security audits, urgent assistance to States, provision of training courses and of a range of guidance material, and various other projects?

China actively supports and participates in all action plans developed by ICAO for the purpose of enhancing international aviation security. The Civil Aviation Administration of China (CAAC) consented to an ICAO aviation security audit in May 2004, and will undergo a follow-up audit in June 2006. CAAC sent security experts to assist the civil aviation authorities of the Democratic People's Republic of Korea in June 2005 in carrying out an ICAO security audit; CAAC would also like to make full use of the Aviation Security Training Centre in Kunming for the active development of international training cooperation.

1.20 In its report (fourth report, p. 30), China states that ICAO plans to launch security audits of the international facilities at Beijing's Capital, Xian's Xianyang and Kunming's Wujiaba airports. The Committee would be pleased if China would share with it the difficulties and deficiencies identified in the audit, particularly with respect to the standards and practices detailed in Annex 17 to the Convention on International Civil Aviation.

With a view to remedying security shortcomings as quickly as possible, CAAC is willing to share information by appropriate means on problems and deficiencies found in the ICAO audit, on the condition that the security of such information be guaranteed.

Implementation of the 13 international counter-terrorism instruments

1.21 The Committee would appreciate information on the steps that China has taken or plans to take with a view to becoming a party to the following international counter-terrorism instruments: the International Convention for the Suppression of the Financing of Terrorism; the Convention on the Marking of Plastic Explosives for the Purpose of Detection and the International Convention for the Suppression of Acts of Nuclear Terrorism.

China is a State Party to 11 of the 13 international counter-terrorism instruments, including the International Convention for the Suppression of the Financing of Terrorism, ratified by the National People's Congress on 28 February

2006. China also signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 14 September 2005, approval of which is currently under study. China is not yet a State Party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection, but is studying the possibility of acceding to it.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does China have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Pursuant to the Criminal Law of China, those who incite others to commit terrorist crimes should bear criminal liability. The Criminal Law also stipulates that acts of organizing, leading and participating in terrorist organizations and financially assisting terrorist activities constitute crimes. The International Convention for the Suppression of Terrorist Bombings and the Shanghai Convention on Combating Terrorism, Separatism and Extremism, both of which China has acceded to, carry clauses on the prohibition and prevention of inciting one or more terrorist activities.

2.2 What measures does China take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

The measures of border control as specified in the reply to item 2.3 below effectively deny safe haven to anyone guilty of incitement to commit a terrorist act or acts.

Paragraph 2

2.3 How does China cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

China exercises strict border control inspection. Those with fraudulent documents or insufficient reasons for visiting China are denied entry. To prevent the entry of international terrorists, China has established a name list of persons who are to be denied entry by visa control and entry inspection agencies.

In combating the use of fraudulent travel documents to carry out illegal exit and entry activities, China has increased investment in scientific research on the production of identity documents with enhanced forgery-resistant features; research on forgery detection receives special emphasis. Document study offices have been set up in the Ministry of Public Security and at key ports, and active cooperation is being conducted with relevant countries. To date, China has conducted such cooperation with immigration and police authorities of Australia, Canada, France, Germany, Japan, and the Netherlands. Such cooperation includes exchanging police

liaison officers, sharing techniques and experience in identifying fraudulent exit and entry documents, timely mutual notification of the anti-forgery features of new editions of passports as well as characteristics of the fraudulent documents seized at ports, and visiting the foregoing countries to study their forgery-detection networks, equipment and human-resources training.

In order to safeguard the security of China's borders and prevent the entry of terrorists and terrorist suspects into China, the Ministry of Public Security of the People's Republic of China has enhanced its cooperation with the Interpol General Secretariat in the areas of intelligence and information through China's National Interpol Central Bureau, with priority given to working with Interpol's database of Stolen and Lost Travel Documents (SLTD).

Paragraph 3

2.4 What international effort is China participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

China takes an active part in the dialogue among civilizations, and stands for the preservation of cultural diversity and better understanding, mutual respect and seeking common ground while respecting differences among civilizations and religions for the sake of harmonious coexistence and common prosperity. For example, from 2002 onward, the topic of "promoting dialogue among cultures and civilizations" has been on the agenda of several Asia-Europe (ASEM) Meetings; Chinese leaders attended and addressed such meetings on a number of occasions, which was highly valued by all sides.

China supports the proposal put forward by Indonesia at the First Asia-Pacific Economic Cooperation Senior Officials Meeting (APEC SOM I) meeting in early March 2006 calling for dialogue among different civilizations and faiths.

2.5 What steps is China taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

The Anti-terrorism Law, which is in the process of being drafted, will include relevant content.

Paragraph 4

2.6 What is China doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

China has always held that counter-terrorism efforts should be based on the Charter of the United Nations and other universally recognized international law, including international human rights law, refugee law and humanitarian law.

3. Assistance and guidance

China appreciates the efforts and recommendations of the Committee and hopes the Committee and other countries and international organizations can provide technical assistance to or communicate with China in the following fields:

As the anti-money-laundering, criminal-investigation and terrorism-financing analysis abilities of the financial investigation offices of some Chinese local public security organs need to be enhanced, China looks forward to receiving assistance and personnel training arrangements from the Committee and other countries and organizations regarding methods of financial analysis and capital tracing, identification and freezing of criminal assets, and the handling of relationships between criminal law-enforcement agencies and financial intelligence agencies.

The Chinese Government hopes to exchange information and technical consultation with the United Nations and its related organizations, as well as other countries concerned, in building up the capacity of its "central authority" in mutual legal assistance in criminal matters. The Ministry of Justice of China has been designated as the central authority for China under 40 treaties on mutual legal assistance in criminal matters with foreign countries, such as Australia, Canada, France, Mongolia, the Russian Federation, the United States, and Viet Nam. Capacity-building and technical assistance in this area are extremely important and beneficial for enhancing China's efforts to develop effective and capable international mutual legal assistance and cooperation in criminal matters. The person to contact within the Ministry of Justice is as follows:

Mr. Gong Xiaobing, Director General,
Department of Judicial Assistance and Foreign Affairs,
Ministry of Justice of the People's Republic of China
Telephone:+86-10-65205234, Fax:+86-10-65205211,
Email: xmzhang@public3.bta.net.cn

Appropriate technical assistance is also needed in the area of setting up a risk assessment and threat management system in the aviation security field. China also welcomes any assistance in training instructors and sharing training materials to enhance its training capability in aviation security.

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Letter dated 30 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from the Libyan Arab Jamahiriya submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as the Libyan Arab Jamahiriya's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-42055 (E) 290906 031006

Annex

Letter dated 21 June 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

It is my honour to refer to your communication dated 24 February 2006 and to submit herewith the report of the Socialist People's Libyan Arab Jamahiriya containing answers to some issues that were contained in the reports the Jamahiriya has submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Ahmed A. **Own**
Chargé d'affaires a.i.

Enclosure

[Original: Arabic]

Report of the Socialist People's Libyan Arab Jamahiriya containing a reply to the letter of the Chairman of the Counter-Terrorism Committee dated 24 February 2006 relating to some of the points in the Jamahiriya's report submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Implementation measures

1.1 The Committee takes note of article 206 of the Penal Code and of the measures envisaged in the new draft penal code, such as article 260, paragraph 10 on criminalization of the financing of terrorism. Has the draft penal code been adopted? If so, the Committee would appreciate a copy of the relevant articles thereof.

Response

It has not yet been possible to adopt the draft Penal Code because of the large number of articles it contains and their sensitivity and importance. However, we hope that it can be submitted for adoption at the first session of the Basic People's Congresses inasmuch as the process of drafting and reviewing the Code has been completed, and symposiums have been held to explain it and create general awareness of the aim behind it.

1.2 The Committee takes note of articles 206 and 322 of the Penal Code on the criminalization of any form of assistance to a criminal gang. Have any prosecutions in terrorism cases been initiated on the basis on those two articles? If so, the Committee would appreciate information on and examples of such cases and their outcome.

Response

Whether there are trials depends on whether there have been terrorist offences. However, it can be said that all politically or religiously motivated offences are dealt with in accordance with the Code of Criminal Procedure, and have been tried in the ordinary courts since the abolition of the People's Court. There are cases of this type where a verdict has been rendered and there are others which are pending, but since the concept of terrorism has not been defined, it is difficult to say whether they were terrorist offences. Nevertheless, they are of the type described in the draft Penal Code as terrorist offences and, indeed, some of them fall under Book Two, chapter I of the Penal Code currently in force, which relates to offences against the internal and external security of the State.

1.3 The Committee notes the adoption of the new money-laundering law in January 2005. Could the Libyan Arab Jamahiriya please provide an outline of the procedures to be followed and describe the criteria to be used in deciding whether a transaction is to be deemed suspicious.

Response

I. Procedures to be followed

A. Bank accounts and required documents

1. When an account is opened, a bank must ensure that all necessary information and documents have been obtained, including the account holder's full name, current address and place of employment. The account holder's original passport and identification card must also be examined and a copy of each retained. The copies must be signed by the employee responsible for opening the account to indicate that they are "certified true copies".

2. The bank must obtain all information and documents from legal persons, especially a copy of the commercial licence. The licence's renewal date must be recorded and a copy of the current licence must be kept in the bank's files at all times. The bank must also obtain the owner's name and address and the names and addresses of the partners. The names and addresses of shareholders in joint-stock companies whose investment exceeds 50,000 Libyan dinars must be recorded.

3. In order to open an account in any bank, a cooperative, charitable, social or professional organization must present an original certificate of incorporation, issued and signed by the competent authority, which confirms the organization's identity and authorizes it to open bank accounts.

4. Banks must update their records on a regular basis and in a manner that reflects all changes to the information presented by the account holder as such changes occur, or ask account holders to provide updated information at least every six months.

5. The measures outlined in paragraphs 1, 2 and 3 also apply to other financial institutions that receive funds from their clients to be managed in investment accounts.

B. Opening accounts under assumed names

Opening accounts under assumed names or opening numbered accounts is strictly prohibited. Accounts must be opened in the holder's name as it appears in the passport (abbreviation is accepted) or in the commercial licence in the case of legal persons.

C. Measures to be taken in dealing with persons who do not have bank accounts

1. Banks and exchange bureaux must carefully and systematically verify the identity of persons who do not have bank accounts and who wish to pay in cash for money orders. This applies to all transactions that exceed 1,000 Libyan dinars, or their equivalent in other currencies, at exchange bureaux and all transactions that exceed 5,000 Libyan dinars, or their equivalent in other currencies, at banks.

In this context, the verification covers detailed information on the transaction, including the client's name and complete address, the beneficiary's address, examination of the original of the client's identity document and the source of the funds to be transferred. All this information must be entered into the two forms attached to the transaction which must be signed by the client and by the employee of the bank or financial institution who is responsible for approving the transaction.

2. On receipt of a transfer in excess of 5,000 Libyan dinars or the equivalent in another currency for payment in cash or traveller's cheques to a client who does not have accounts at the bank, or in the case of transfers received from an exchange bureau, the form prepared for such transactions must be filled in and kept in a special folder.

3. Particular care and attention must be exercised when a person whose name does not appear on the power of attorney for an existing account deposits cash or traveller's cheques into the account or if such person is not one of the account holder's employees or usual correspondents.

4. If it appears that a financial transaction is being made on behalf of a third party, particular attention must be paid and detailed information concerning such third party must be recorded.

5. Verification of client identity in the event of doubt: when money-laundering is suspected, the client's identity must be verified in the manner outlined above, irrespective of the amount of the transaction.

D. Procedures for rental of safe deposit boxes

Special caution must also be exercised concerning the rental of safe deposit boxes. Detailed information must be recorded on clients who rent 70 cm by 70 cm by 70 cm safe deposit boxes. When more than one safe deposit box is rented, the total volume of the boxes rented shall be deemed to be the volume of a single box. In the case of non-resident clients, the Central Bank of Libya shall be provided with copies of the forms containing detailed information on all such clients.

E. Procedures to be followed for letters of credit and documentary credits

When letters of credit, or other means of commercial financing are used to transfer funds between countries in a manner inconsistent with the client's usual commercial activity, banks must scrupulously carry out the following actions:

1. Exercise caution when the beneficiaries of letters of credit or the owners of transportation companies are, in fact, the clients who open the letter of credit.

2. Ensure that the amounts shown on the letter of credit or documentary credit documents presented by the client to the bank and to the customs, port or airport agency are identical to the originals.

3. Examine documents selectively and systematically in cooperation with shipping companies and the customs, port or airport agency.

4. Ensure that the size of the facilities granted is appropriate to the collateral held, the nature or level of activity and the client's solvency.

II. The criteria used to decide whether a transaction is suspicious

A. Banking transactions in cash

Money-laundering via cash transactions may be suspected in the following circumstances:

1. Large and unusual cash deposits made by persons or companies whose ostensible commercial activities are usually transacted by cheques or other payment orders.

2. A large increase in cash deposits on the part of any client or commercial establishment for no apparent reason, especially if these deposits are transferred within a short period of time from the account to a party not usually associated with the client.

3. Clients who make repeated cash deposits where the amount of each deposit is below the limit for money-laundering, but the total amount of the deposits equals or exceeds the limit for money-laundering.

4. Corporate accounts whose banking transactions, whether deposits or withdrawals, are made, for no apparent reason, in cash instead of negotiable instruments (such as cheques, letters of credit, documentary credits, money orders, etc.).

5. Clients who, for no apparent reason, constantly make payment in cash or deposit cash funds instead of using money orders, funds transfers or other negotiable instruments.

6. Clients who, for no apparent reason, try to exchange large amounts of small denomination bank notes for large denomination bank notes. Should the amount exceed 5,000 Libyan dinars or its equivalent in other currencies, the form prepared for this purpose must be filled in.

7. Clients who transfer large sums of funds abroad with instructions to pay in cash or where funds are received from abroad for the benefit of non-resident clients with instructions to pay them in cash.

8. Large and unusual cash deposits using automated teller machines (ATM) or cash drop boxes in order to avoid direct contact with the employees of the bank or other financial institutions if these deposits are incompatible with the client's reasonable expectations or not consistent with his income.

B. Money-laundering via client accounts may be suspected in the following circumstances:

1. Clients who maintain several accounts or maintain accounts that are not required for the type of work they are engaged in, and particularly when there are banking transactions involving unknown persons.

2. Clients with multiple accounts into which they deposit cash and where the total balance of those accounts is large, except for businesses that hold such accounts for the purpose of maintaining relations with banks that occasionally provide them with facilities.

3. Any person or company whose accounts do not show evidence of ordinary individual banking activities or activities connected with a commercial business but are used to received or disburse large amounts for unknown purposes or purposes unrelated to the account holder or his business (for example, a large increase in the number of transactions).

4. Clients who hold accounts with several financial institutions within a single area and who transfer the balances of all those accounts into a single account and then transfer the total amount abroad.

5. Deposits of large third-party cheques endorsed in favour of the account holder when there is no apparent relationship between the party and the account holder or his type of work.

6. Large cash withdrawals from a previously inactive account or from an account that recently and unexpectedly received substantial funds from abroad.

7. Deposits made into the same account by numerous persons and without an appropriate explanation.

8. Large, unusual and unprecedented deposits into the account of a jewellery store, particularly when a large portion of those deposits is in cash.

9. All banks and other financial institutions must scrutinize, in particular, all funds transfers coming from or going to countries that have implemented the recommendations of the Financial Action Task Force (FATF) or whose financial institutions have undertaken to implement those recommendations according to the list periodically issued by the Central Bank of Libya.

C. Investment-related transactions

Money-laundering via investment-related transactions may be suspected in the following circumstances:

1. Clients who purchase securities and store them in the safe deposit boxes of a financial institution when this appears to be not in keeping with the client's ostensible status.

2. Loans guaranteed by the deposits of companies that are subsidiaries of foreign financial establishments, especially if the countries concerned are known to be drug producers or large drug markets according to the list periodically issued by the Central Bank of Libya.

3. Persons or businesses that import large amounts of funds to invest in foreign currencies or securities when the size of the investments is out of keeping with the income of the persons or businesses concerned.

4. Purchase or sale of securities for no apparent reason or in unusual circumstances.

D. International banking and financial transactions

Money-laundering via international banking and financial transactions may be suspected in the following circumstances:

1. Customers who are introduced by a foreign branch, a subsidiary company, or another bank in a country which produces or manufactures drugs.

2. The building-up of a large balance that is incompatible with the client's business activity and the subsequent transfer of the funds to an account or accounts abroad.

3. Successive requests, for no apparent reason, for traveller's cheques or money orders in foreign currency, or other negotiable instruments, in amounts that exceed the designated limit.

4. Successive deposits, for no apparent reason, of traveller's cheques or money orders in foreign currency in amounts that exceed the designated limit, especially if they have been issued abroad.

5. Clients who, for example, insist on opening letters of credit with a specific foreign correspondent and no other.

1.4 **The Committee notes that, following the adoption of resolution 1373 (2001), the Libyan Arab Jamahiriya established a financial information unit within the Central Bank, to which all banks and financial institutions send reports on suspicious transactions. However, it appears that, pursuant to article 9 of the Money-Laundering Act (2005), a new financial information unit has been established with the same functions. Has the second unit replaced the earlier one? If not, please describe the functions of each unit and explain which of them performs the traditional functions of a financial intelligence unit (FIU): collecting, analysing and disseminating information to the competent authorities.**

Response

The FIU specified in article 9 of the Money-Laundering Act (2005) is the same as the unit previously established by decision no. 40 (2002) of the Governor of the Central Bank of Libya and is mentioned in this law to strengthen the measure taken by the Central Bank of Libya to establish the FIU. The unit established pursuant to the Money-Laundering Act therefore has the same competence as that specified in the Governor's decision.

1.5 **Pursuant to paragraph 1 (a) of resolution 1373 (2001), financial institutions and other intermediaries should identify their clients and report suspicious transactions to the relevant authorities. How many suspicious transactions reports (STRs) have been received by the financial information unit within the Central Bank? How many have been analysed and disseminated? The Committee would welcome information on and examples of such cases and their outcome.**

Response

The FIU within the Central Bank of Libya has not received any STRs since the adoption of the Money-Laundering Act (2005).

1.6 The Libyan Arab Jamahiriya indicates in its fourth report that the new Penal Code, if adopted, would make it possible to seize funds used in terrorist acts (fourth report, p. 5). What specific measures does Libya plan to take in order to establish a distinction between money-laundering and the financing of terrorism in its legislation?

Response

The measures that will be taken under the Act to distinguish between money-laundering and the financing of terrorism immediately after the adoption of the new Penal Code will be clarified in the context of the implementation of the Act.

1.7 The Committee would appreciate a copy of the Monetary Control Act mentioned in the second report (p. 5).

Response

What is meant by the Monetary Control Act? The Committee must be referring to law No. 1 (2005) on banking (copy attached) as there is no national legislation entitled Monetary Control Act.*

1.8 The Committee takes note of the information provided by the Libyan Arab Jamahiriya concerning the reporting obligation and would like to receive a list of other intermediaries, institutions and professions authorized to conduct financial activities by the Central Bank of Libya. Does the list include lawyers and real estate agents, for example? If so, please provide the Committee with the relevant provisions and/or regulations.

Response

The Central Bank of Libya does not license lawyers and real estate agents to conduct financial activities. The Central Bank issues authorizations to commercial banks, specialized banks, the branches and representatives of foreign banks operating in the Jamahiriya, exchange bureaux and financial services companies.

1.9 The Committee would appreciate a list of the financial, commercial and economic institutions mentioned in article 9 ("first part") of the newly enacted Money-Laundering Act.

Response

The financial, commercial and economic institutions mentioned in article 9 ("first part") of the newly enacted Money-Laundering Act are as follows:

1. Commercial banks operating in the Libyan Arab Jamahiriya.
2. The Libyan Foreign Bank.
3. Exchange bureaux and financial services companies.

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* *Translator's note*: A misunderstanding appears to have arisen because the name of the Monetary Control Act as it appears in the Arabic version of the Committee's questions differs slightly from the name given in the Arabic original of the second report of the Libyan Arab Jamahiriya (S/2002/1021).

4. Specialized banks operating in the Libyan Arab Jamahiriya.

5. Foreign banks operating in the Libyan Arab Jamahiriya.

6. Insurance companies operating in the Libyan Arab Jamahiriya.

1.10 **In its first report (p. 5), the Libyan Arab Jamahiriya states that banks and other entities licensed to deal in foreign currency must submit to the Central Bank of Libya periodic statements of the foreign currency that they have purchased. What other entities are licensed to transfer money in Libya? In addition, the Committee would appreciate information on the methods employed to verify that the activities of such banks and other entities are audited in order to ensure that the funds transferred are not used to fund terrorist activities.**

Response

What is meant here are exchange bureaux and financial services companies. The activities of banks and exchange bureaux are verified by means of on-site inspections.

1.11 **The Committee thanks the Libyan Arab Jamahiriya for the information provided in the area of the regulation of charitable organizations and would like to know which charitable organizations have been audited since 2002 and what the outcome of these audits was. The Committee would also be pleased to receive a description of the method employed, copies of the relevant laws and regulations and an outline of the administrative mechanisms governing charitable organizations. In their absence, please indicate to the Committee what steps the Libyan Arab Jamahiriya intends to take to modernize its measures in that area.**

Response

Charitable organizations are private associations under Libyan law and are regulated by law No. 19 (2001) on the reorganization of private associations. Article I of the law defines a private association as any non-profit group that provides social, cultural, sports, charitable or humanitarian services at the provincial or national level and within the framework of the law, morals and public order.

The law sets forth the requirements for establishing organizations. Among these requirements are that the organization must have a unique name, articles of incorporation signed by its members and a headquarters. It also stipulates that the organization must announce its incorporation, specify the competent authority responsible therefor and establish the organization's legal personality.

The law further stipulates that the organization must maintain a special register of the names of all its members; keep minutes of the meetings of its general assembly and board of directors; maintain a register of income and expenses, including all gifts and contributions, and their source; and keep all documents, correspondence and records pertaining to the organization at its headquarters.

Article 11 of the law deals with the annual balance sheet and revenue sources and defines revenue sources as subscriptions of the organization's members, its return on the investment of its funds and the unrestricted gifts and donations it receives. Article 14 calls for the approval of the balance sheet by the General People's Committee and makes the organization subject to oversight and control

with respect both to its activities and to the use of its assets. Chapter IV of the law entrusts the supervision of these organizations to the highest organ of the Jamahiriya, namely the secretariat of the General People's Congress, which can suspend decisions that are illegal or that violate an organization's articles of incorporation. Under this chapter an organization's actions or decisions may be annulled by the competent court and the State is granted the right to suspend its management and appoint a new administration.

The law also imposes criminal penalties for engaging in prohibited activities, the most important of which are:

1. Providing false information or withholding correct information.

2. Commencement of activities before announcing incorporation.

3. Undertaking any activity that goes beyond the purpose for which the organization was established.

4. Expending the organization's funds in a manner that does not serve the purpose for which the organization was established.

5. Collecting or obtaining donations in a manner contrary to the provisions of this law. Such donations are confiscated.

1.12 The Committee takes note of the information regarding early warning mechanisms and would welcome a full and updated list of arrangements and agreements on cooperation concluded since 2001, similar to those mentioned in the first report (p. 7).

Response

Information on arrangements and agreements was provided to the Committee in our first report (pp. 13-17 of the Arabic version). No changes have occurred with respect to those arrangements and agreements except that the Libyan Arab Jamahiriya signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 16 September 2005.

1.13 In accordance with the principle of reciprocity, the Libyan Arab Jamahiriya has concluded bilateral administrative agreements with Egypt and Tunisia on measures for monitoring the movement of goods and individuals across their common borders (fourth report, p. 13). The Committee would like to receive a copy of these agreements or an outline of the relevant provisions thereof.

Response

Attached to this report are article 4 of the reciprocal administrative agreement with Egypt signed on 23 July 1997, and article 6 of a similar agreement with Tunisia signed on 27 November 1997.

1.14 The Committee takes note of the Libyan Arab Jamahiriya's efforts to enhance its cooperation with other States and would appreciate a description of the measures it has taken, or intends to take, in order to increase its cooperation with international organizations on counter-terrorism matters.

Response

The Libyan Arab Jamahiriya has consistently, and on numerous occasions, emphasized its continual desire and willingness to cooperate with international counter-terrorism organizations and committees. To that end, the Libyan Arab Jamahiriya has undertaken the following:

1. In an official letter dated 7 January 1992 addressed to the Secretary-General of the United Nations, the Libyan Arab Jamahiriya called on the General Assembly to convene a special session to consider the phenomenon of international terrorism, reach a clear and agreed-upon definition of what terrorism is, and ascertain its causes and how to deal with it.

2. The Jamahiriya has participated in all international forums and workshops on counter-terrorism, whether they have been organized by the United Nations, regional organizations or countries. The Libyan Arab Jamahiriya's delegates to those events stressed the Jamahiriya's position, which condemns terrorism in all it forms and manifestations and urges the necessity of defining the concept of terrorism, understanding its causes and reaching agreement on ways of addressing it.

3. The Jamahiriya has acceded to all international and regional counter-terrorism conventions and has concluded many bilateral conventions. The last international convention signed by the Jamahiriya was the International Convention for the Suppression of Acts of Nuclear Terrorism, in New York on 16 September 2005.

4. The Jamahiriya has harmonized its national legislation with the counter-terrorism requirements of the General Assembly and the Security Council. It has promulgated law No. 1, the Banking Act (2005), and law No. 2, the Money-Laundering Act (2005), and the new draft Penal Code will be submitted to the Basic People's Congresses for consideration and adoption. The Penal Code provides for the imposition of severe and deterrent penalties on the perpetrators of terrorist acts (these laws were previously sent to the Committee as annexes to the Jamahiriya's fourth report).

5. The Jamahiriya has openly and in all sincerity cooperated with the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and with the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and has provided both committees with the required reports and with responses to the questions on the reports. The Jamahiriya has also submitted the report required by the Security Council Committee established pursuant to resolution 1540 (2004) on the non-proliferation of weapons of mass destruction as well as a follow-on report with responses to the questions raised by the Committee.

6. The Libyan Arab Jamahiriya will continue to support the counter-terrorism efforts of international and regional organizations, and will endeavour to participate in all training events and programmes aimed at training jurists, security professionals, and social workers on how to pre-empt and respond to terrorist offences.

7. The Jamahiriya will strengthen the role of domestic organizations, raise awareness of the dangers and threats of terrorism, monitor Internet sites and, when

discovered, shut down sites that promote terrorism and violence and incite hatred towards others, their religion and their culture.

8 The Jamahiriya will encourage international efforts to promote dialogue and cultural rapprochement aimed at reaching an enlightened understanding by supporting efforts to deal with the root causes of terrorism and finding effective means of addressing them.

1.15 **The Committee notes that the Libyan Arab Jamahiriya has no legislation governing legal and administrative measures to assist requesting States in criminal investigations and judicial proceedings and would like to know what steps will be taken to ensure cooperation with other countries (e.g. laws on the modalities of inter-State cooperation, extradition, mutual legal assistance and transfer of criminal proceedings).**

Response

The Jamahiriya has concluded several bilateral conventions of a general nature on judicial cooperation that included provisions on the extradition of criminals and convicted persons. There are also bilateral conventions on the extradition of criminals and convicted persons (previously noted on page 17 of the Libyan Arab Jamahiriya's first report).

1.16 **The Committee notes that agreements concluded between the Libyan Arab Jamahiriya and other States contain a provision permitting extradition in the case of offences which are not of a political nature. What criteria are used in determining whether an offence is political? Are any of the offences established in the international counter-terrorism conventions and protocols considered political offences? If so, please provide the Committee with the relevant provisions. In that regard, the Committee attaches great importance to the entry into force of article 260, and other relevant articles, of the draft penal code.**

Response

There is no definition for acts that are considered political offences, however, the Code of Penal Procedure sets out rules in accordance with which an offence may be regarded as political. Article 2/493 bis of the Code states:

> "Any offence that affects the political interests of the State or the political right of a person, or any ordinary offence whose primary motive is political, will be considered a political offence."

Paragraph 1 (e) of that article provides, among other extradition requirements, that the offence must not be a political or other related offence. According to the decision of the Supreme Court, the trial court is the final arbiter of whether the offence for which extradition has been requested is a political offence. The ruling this court makes is binding throughout the State as the Supreme Court has ruled that the authority to specify the nature of the crime rests with the trial court. Consequently, the criminal court is responsible for deciding whether the offence is a political offence when it comes to extradition requests.

1.17 **The Committee takes note of the Libyan Arab Jamahiriya's information regarding its security systems for border control. What personal information is included in the relevant databases, what are the sources of this information, how often is it updated and how is it shared with other States or international organizations?**

Response

I. Personal information for wanted persons

Four-part name and surname; alias; passport number; nationality; mother's name; place and date of birth; personal identification card number and its place and date of issue; name of requesting authority; requesting authority's memorandum number; date of requesting authority's memorandum; date and place of last entry; date and place of last departure.

II. Sources of information

1. The General People's Committee for Foreign Liaison and International Cooperation.
2. The competent security directorates.
3. The judicial police attached to the Justice Secretariat.
4. The General Anti-Crime Directorate of the Public Security Bureau.
5. The Arab Bureau of Criminal Police and Interpol.
6. The General Anti-Crime Directorate.

III. Frequency of updating

Information is updated whenever a person is arrested or is added to or removed from the lists.

IV. How information is shared with other States and international organizations

1. Through the General Directorate for Consular Affairs.
2. Through the Arab Bureau of Criminal Police and Interpol.
3. Through the Liaison and Cooperation Directorate of the General People's Committee for Public Security (Ministry of Justice).

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does the Libyan Arab Jamahiriya have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

2.2 What measures does the Libyan Arab Jamahiriya take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Response

Further to its response to paragraph 3 of Security Council resolution 1373 (2001) on asylum, found on page 17 of the Libyan Arab Jamahiriya's first report, a draft law on asylum is still under consideration and is being prepared by the competent technical authorities.

2.3 How does the Libyan Arab Jamahiriya cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Response

The Libyan Arab Jamahiriya has previously responded to this question on page 11 of the Arabic version of its first report and on pages 15 and 16 of its fourth report.

Paragraph 3

2.4 What international efforts is the Libyan Arab Jamahiriya participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Response

The Libyan Arab Jamahiriya is anxious to support and encourage international efforts aimed at strengthening dialogue and increasing understanding between civilizations. The Jamahiriya has supported the calls made by certain United Nations Member States to hold meetings and symposiums in order to achieve this noble goal. It is worth noting that the Libyan Arab Jamahiriya has organized many events on dialogue between religions during the past two decades and has actively participated in similar events organized by other countries.

2.5 **What steps is the Libyan Arab Jamahiriya taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?**

Response

The Holy Koran is the law of society in the Libyan Arab Jamahiriya. The Koran's verses call for brotherhood and love between people, non-discrimination on the basis of gender, skin colour, religion or for any other reason, and urge dialogue, reasoned debate and spiritual counsel as well as collaboration in the quest for godliness and piety instead of sin and enmity. Belief in and respect and reverence for all prophets, messengers, and divine books is foremost among the requirements of a Muslim's belief and the consummation of his faith. On that basis, educational, cultural and religious establishments are run in accordance with these tolerant principles and are all subject to close and continuous tracking and monitoring by the competent authorities under the legislation in force. Thus, academic curricula and cultural programmes do not contain any incitements to acts of hatred, fanaticism or violence in any shape or form, and are monitored and supervised by the competent national committees. All mosques and Islamic places of worship in the Libyan Arab Jamahiriya are monitored and supervised by the Department of Awqaf (Religious Endowments) so that they cannot be infiltrated or diverted from their noble mission.

Paragraph 4

2.6 **What is the Libyan Arab Jamahiriya doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?**

Response

Article 14 of law No. 20 of 1991 on strengthening freedom stipulates that no person may be deprived of his freedom, or have his freedom restricted, nor may he be searched or questioned unless he has been accused of an act punishable by law or unless such action has been authorized by a competent judicial authority. Article 17 further stipulates that the accused is innocent until judged guilty in court and prohibits subjecting the accused to any type of physical or psychological torture or treating him in a manner that is cruel or degrading or that violates his human dignity. The second paragraph of Great Green Document on Human Rights published in 1988 states: "The citizens of the Jamahiriya venerate and protect human rights and forbid their curtailment. Punishment is only for those whose freedom is a danger or source of corruption to others. The purpose of punishment is societal reform and the protection of human values and the interests of society. The society of the Jamahiriya forbids punishments that violate human dignity or that do violence to the human individual such as hard labour or long prison sentences".

Since the Libyan Arab Jamahiriya believes in the principle that international conventions take precedence over national legislation, the competent authorities in the Jamahiriya, when taking measures to implement Security Council resolution 1624 (2005), fully take into consideration all of the country's obligations under

international humanitarian law, human rights charters and refugee law because the provisions of those instruments are fully consistent with Libyan legislation in force.

3. **Assistance and guidance**

3.1 **The Committee wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the resolutions. The Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee takes note of the fields of technical assistance requested by the Libyan Arab Jamahiriya in its third report (pp. 11-12), its additional request of 25 August 2003 and its fourth report (p. 14) and is pleased to inform the Libyan Arab Jamahiriya that its requested assistance has been brought to the attention of potential technical assistance providers through the Committee Matrix.**

3.2 **Furthermore, in light of the specific areas related to the Libyan Arab Jamahiriya's implementation of resolution 1373 (2001) outlined in Section 1 of this letter, and based on the Libyan Arab Jamahiriya's reports to the Committee and on the other relevant information available, the Committee, with assistance from the CTED experts, has conducted a preliminary analysis of the Libyan Arab Jamahiriya's technical assistance needs in order to identify priority areas in which the Committee believes the Libyan Arab Jamahiriya may benefit from receiving technical assistance. With the agreement of and in cooperation with the Government of the Libyan Arab Jamahiriya, the aim is to identify the best possible way for the Libyan Arab Jamahiriya to benefit from technical assistance in order to strengthen its implementation of the provisions of this resolution.**

Response

The Libyan Arab Jamahiriya takes note that the Committee has brought the requests for technical assistance included in its previous reports to the attention of potential technical assistance providers through the Committee Matrix and wishes to express its gratitude to the Committee for the attention it showed in conducting a preliminary analysis of its technical assistance needs. The Jamahiriya looks to the Committee to make further efforts to ensure that it obtains this assistance owing to its importance to the Jamahiriya's implementation of relevant international resolutions in the appropriate manner and to the Jamahiriya's fulfilment of its international obligations.

In conclusion, the Libyan Arab Jamahiriya would like to affirm its constant desire to contribute to any effort that seeks to eliminate terrorism and its root causes and also expresses its full readiness to continue cooperating in full transparency with all of the competent committees established pursuant to General Assembly and Security Council resolutions concerning counter-terrorism.

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Letter dated 29 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Lithuania submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as Lithuania's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-41960 (E) 010806

Annex

Note verbale dated 26 June 2006 from the Permanent Mission of Lithuania to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Lithuania to the United Nations presents its compliments to the Chair of the Counter-Terrorism Committee and has the honour to transmit herewith the fifth report of the Republic of Lithuania on the implementation of Security Council resolutions 1373 (2001) and 1624 (2005) (see enclosure).

Enclosure

Fifth report of the Republic of Lithuania on the implementation of United Nations Security Council resolution 1373 (2001)

Information on the implementation of United Nations Security Council resolution 1624 (2005)

1. Implementation measures

1.1 The Committee wishes to acknowledge the consistently high calibre and detail of Lithuania's reports. In its fourth report (p. 6), Lithuania indicated that the draft law on the prevention of terrorism was submitted to the National Security and Defence Committee of Parliament and was still under deliberation. The Committee would appreciate an update on the status of this draft law and of any other proposed legislation (or, if already enacted, the new laws and regulations) in order to improve the implementation and operability of Resolution 1373 (2001). In light of the urgency of the need to fully implement Resolution 1373 (2001), the Committee considers the passage of this legislation a priority.

A new working draft of the Law on the Fight against Terrorism of the Republic of Lithuania has been prepared. Discussion of this draft law has been included into the working agenda of the fourth (spring) session of the Seimas of the Republic of Lithuania.

Moreover, a new Programme of the Republic of Lithuania on the Fight against Terrorism has been approved by the Government of the Republic of Lithuania resolution of 26 October 2005, which provides for a whole complex of new measures in the following fields:

- Development of a legal basis of the fight against terrorism;
- Protection of potential terrorist targets;
- Identification of potential masterminds and perpetrators of terrorist acts;
- Identification of sources and methods of terrorist financing;
- Investigation of terrorist acts;
- Consequence management;
- Strengthening of anti-terrorist intelligence.

The previous Programme on the Fight against Terrorism approved by the Government resolution of 22 January 2002 has been implemented.

1.2 In the fourth report (p. 7), Lithuania commented on the adoption, in November 2003, of an agreement for the exchange of information and co-ordination of joint operational (intelligence) activities among the Prosecutor General's Office and the relevant entities of the Ministry of the Interior, the Ministry of Defence and the Ministry of Finance. A group headed by the Deputy Prosecutor General was established to meet every six months in order to co-ordinate these services and ensure their interoperability. The Committee

would be interested to learn how effective this co-ordinated model has been in implementing and improving the operability of Resolution 1373 (2001).

In accordance with the Agreement on the Co-operation of the Subjects of Operational Activities and the Co-ordination of Operational Activities (hereinafter – the Agreement), meetings of the subjects of operational activities are conducted regularly, exchange of information takes place continuously.

However, the effectiveness of this co-ordinative model does not satisfy its participants. Therefore, although it is used as a basis for solving the arising issues and problems at the moment, there are ongoing interdepartmental discussions in search of an optimal option that would be adequate to the present realities.

Currently institutions study the possibility of opening the National Criminal Intelligence Centre, which would be a permanent institution for collecting and analysing operational information received by all subjects of operational activities.

1.3 The Committee regards the criminalisation of terrorist acts and their financing and effective protection of the financial system from use by terrorists as areas of priority for all States in implementing Resolution 1373 (2001). From the information provided to the Committee thus far, it would appear that Lithuania has extended its domestic legislation to satisfy the reporting requirements for suspicious transactions. Moreover, in its fourth report (p. 4), Lithuania provided statistics on suspicious transaction reports received by the Financial Crime Investigation Service (FCIS) as of July 2004. The Committee would like to know whether these reports resulted in investigations and prosecutions and, if so, whether any of them were linked to terrorist financing.

In 2004, the Financial Crime Investigation Service (FCIS) of Lithuania received 72 suspicious transaction reports (STRs). Thirteen pre-trial investigations started on the basis of STRs received, and three investigations resulted in convictions. However, none of them was linked to terrorism financing.

In 2005, Lithuanian FCIS received 69 STRs. Fourteen pre-trial investigations started on the basis of STRs received, and one investigation resulted in a conviction. One pre-trial investigation is linked to terrorist financing.

Other investigations are ongoing, other cases are in court.

1.4 In its fourth report (p. 5), Lithuania indicated that financial institutions and other entities, except for lawyers and their assistants, must establish appropriate internal controls to prevent money laundering and the financing of terrorism and ensure that their employees receive the proper training in these measures. The Council of the Lithuanian Bar Association, for its part, was to approve instructions for lawyers and their assistants in order to prevent money laundering and the financing of terrorism and provide adequate training to comply with these measures. Has the Council of the Bar Association adopted and implemented these instructions and, if so, have law firms been submitting reports? Have any criminal, civil or administrative sanctions been imposed on

financial institutions, other entities or law firms for failure to comply with reporting obligations?

The Council of the Lithuanian Bar Association has informed that instructions for lawyers and their assistants in order to prevent money laundering and the financing of terrorism are still under consideration. The Association expects to approve them before autumn of this year.

The Lithuanian Financial Crime Investigation Service has informed that no sanctions have been imposed so far for failure to comply with reporting obligations.

1.5 In the fourth report (p. 6), Lithuania stated that there was no information available on provisional restrictions imposed by prosecutors during pre-trial investigations on the assets of non-profit organisations because of their links with terrorist groups or activities. This appears to indicate that the freezing of assets occurs in the context of investigating the commission of a criminal act. Does Lithuanian legislation permit the freezing of assets, regardless of whether a criminal act has been committed and without a parallel investigation, so that funds of non-profit organisations or charities may be blocked where there is evidence that they are being used to finance terrorist organisations? In the fourth report (p. 6), Lithuania stated that there was no data available concerning the freezing of assets of non-profit organisations during pre-trial investigations. The Committee would be grateful to receive clarification and examples of possible instances where such freezing of assets may have since been imposed.

Pursuant to the provisions of the Law on the Prevention of Money Laundering of the Republic of Lithuania and the Rules for the Freezing of Suspicious Transactions and Reporting to the Financial Crime Investigation Service under the Ministry of the Interior, approved by resolution of the Government of the Republic of Lithuania, suspicious transactions can be frozen for up to 48 hours without initiating a pre-trial investigation. After this period expires, a pre-trial investigation must be initiated or the frozen transactions must be allowed to resume.

The Law on the Implementation of Economic and Other International Sanctions of the Republic of Lithuania provides for the possibility of imposing restrictions on the rights of the subjects, with respect to which international sanctions are implemented, to own, use or dispose money, securities, possessions and other property, as well as other financial restrictions in accordance with the international sanctions. The period of application of these sanctions is determined with regard to the duration of sanctions indicated in the decisions of international organisations or the legal documents of the European Union.

There are no special rules that would apply to the freezing of transactions performed by non-profit (non-governmental) organisations, including the financing of terrorism. All financial sanctions against these subjects are performed following the general legal norms.

Currently, there are no ongoing pre-trial investigations with regard to the financing of terrorism that would involve a non-profit (non-governmental) organisation.

1.6 In the fourth report (p. 10), Lithuania indicated that there were no ongoing investigations with regard to the establishment, recruitment, financing and operation of terrorist organisations on its territory. The Committee would be interested to learn whether new circumstances, events or information have since caused this situation to change and, if so, whether Lithuania has initiated the appropriate investigations.

In October 2005, a pre-trial investigation was initiated in the Republic of Lithuania with regard to a criminal act provided for by Part 5 of Article 250 of the Criminal Code of the Republic of Lithuania – the financing of or the provision of material or other support to a group for performing a terrorist act. In October 2005, one of the commercial banks of Lithuania received a payment order for the transfer of a large sum of money to a natural person. While checking the payment order against the blacklist of persons, the bank found that the recipient was included in the consolidated list of persons subject to EU financial sanctions. Upon finding this information, the bank informed competent law enforcement institutions and temporarily froze the funds in the bank account. When additional information was received and the data of the natural person was specified, it was determined that, in this case, the names and surnames of persons accidentally coincided and the suspect was not a person included in the consolidated list of persons subject to EU financial sanctions. Therefore, the pre-trial investigation was terminated.

1.7 In the fourth report (p. 11), Lithuania detailed the adoption of new laws relating to the legal status of and asylum for aliens, the purpose of which was twofold: to harmonise legal provisions with the European Union's *acquis* for visas, migration and the free movement and asylum of persons and to advance State security and the prevention of terrorism. On page 12 of the report, Lithuania also reported on detention procedures for aliens related to establishing the identification of persons through photographing, fingerprinting, DNA testing and biometrics. The Committee would welcome information on the effectiveness of these new laws and procedures and would like to know whether they have helped to identify and deter persons who could pose potential terrorist risks. Has this new legislation required border personnel to undergo training in new technology to detect counterfeit, forged or false identity and travel documents?

An alien may be detained for the purposes of personal identification for 48 hours only. The court may decide to detain an alien for a longer period only in the presence of one of the bases for detention specified in Article 113 of the Law on the Legal Status of Aliens of the Republic of Lithuania. According to the Law, personal identification is not a basis for detention for a longer period than 48 hours.

A photo and the fingerprints of an alien are taken to determine his or her identity when he or she:

1. submits an application for asylum in the Republic of Lithuania. This procedure is performed on all asylum-seekers who are over 14 years old;
2. is detained for illegal entry, presence or residence in the Republic of Lithuania, as well as transit through or departure from the Republic of Lithuania;
3. is deported from the Republic of Lithuania.

Thus, photos and fingerprints of aliens are taken only when they violate the laws of the Republic of Lithuania (except for the asylum-seekers, whose fingerprints are taken in order to ensure better registration of asylum-seekers and in conformity with the EU's *acquis* requirements).

Aliens are detained in the Centre for the Registration of Aliens of the State Border Guard Service under the Ministry of the Interior, which also performs investigations related to their personal identification. It not only helps in identifying persons who have already been to Lithuania but also in effectively registering the newly arriving aliens who do not possess documents attesting their identity or who conceal their personal identity.

To date, the ascertaining of the personal identity of aliens by the Migration Department under the Ministry of the Interior has never revealed that a person is related to terrorist groups or may pose a threat as a terrorist.

The State Border Guard Service (SBGS) under the Ministry of the Interior of the Republic of Lithuania does not possess information on whether there were any persons identified among the registered refugees who might pose a terrorist threat.

In replying to the second part of the question, the SBGS informs that the performance of dactyloscopy required additional training. All officers who are working with the dactyloscopy system had a one-day training course.

The laws regulating the identification of refugees do not contain any provisions implying that officers have to undergo additional training in new technology to detect counterfeiting.

1.8 In the fourth report (pp. 12-13), Lithuania noted the adoption of new ship and port facility security legislation which entered into force in 2004 in order to implement the International Maritime Organization (IMO) International Ship and Port Security (ISPS) Code, as well as Regulation No. 725/2004 of the European Parliament and Council. The Committee would be interested in knowing whether these procedures, which have been in force for over a year, have revealed or deterred any possible terrorist activities and whether this new legislation has enhanced greater security collaboration among contiguous States.

After the adoption of new ship and port facility security legislation which entered into force in 2004 in order to implement the International Maritime Organization (IMO) International Ship and Port Security (ISPS) Code, as well as Regulation No. 725/2004 of the European Parliament and Council, not a single terrorist act or an

attempt to perpetrate a terrorist act was registered at Klaipėda State Seaport. No terrorist actions aimed at ships or port facilities were registered either.

At the request of the Ministry of Transport of the Republic of Lithuania in 2004, to assist in the fulfilment of the requirements of the Code, the United States Trade and Development Agency (USTDA), acting on behalf of the US Government, donated USD 415,000 for the assessment of the security of Klaipėda State Seaport and for submitting proposals for further improvement of the port's security.

On 7 August 2004, a Grant Agreement was signed at the Ministry of Transport of the Republic of Lithuania between the Ministry of Transport of the Republic of Lithuania and a US company – the Science Applications International Corporation (SAIC) – regarding technical assistance for the security of Klaipėda State Seaport. Under this agreement, an assessment study of the security of Klaipėda State Seaport's facilities was performed, which identified a number of shortcomings in the security of port facilities. The elimination of these shortcomings is underway; however, due to financial and organisational reasons, it has not yet been fully completed.

In implementing the provisions of the Code, Lithuania exchanged experiences and established contacts with foreign experts.

Currently, all port terminals and shipment companies at Klaipėda State Seaport have appointed and trained security inspectors, prepared and approved action plans for various danger levels.

All of this has substantially improved the safety of the seaport's facilities and the entire port and enables preparation for the international co-ordination of actions in case of a terrorist act.

1.9 In the fourth report (pp. 13-16), Lithuania provided a comprehensive explanation of its import/export regimes for firearms, ammunition and explosives. The procedures in place appear to consider and cover aspects of risk involved in licensing, registration and purchase, as well as the transit and exit of arms and explosives. Have the Lithuanian Customs, Police and State Security Departments detected and prevented real or potential illicit arms trafficking with terrorist organisations? Since the fourth report (p. 18), has a single national point of contact been designated to serve as a liaison with other States in preventing terrorists from gaining access to arms?

Since the fourth report to the UN Counter-Terrorism Committee, there have been no known cases of weapons trafficking across Lithuania for terrorist organisations. However, while investigating illegal circulation of firearms and explosive materials and devices, the State Security Department of the Republic of Lithuania, together with the General Prosecutor's Office of the Republic of Lithuania, initiated a pre-trial investigation with regard to illegal possession and sale of firearms and explosives at the beginning of 2006.

In the course of searches during the investigation, arms, ammunitions and explosives were found with the suspects. Part of the weapons could have belonged to

persons espousing ultranationalist views who may be related to previously committed crimes that may be qualified as terrorism.

The Customs Office of the Republic of Lithuania informs that it has not disclosed or prevented any illegal activity related to terrorist organisations.

1.10 The Committee notes that Lithuania has ratified 12 of the international counter-terrorism instruments and would welcome an update on the adoption of implementation legislation. The Committee further notes that Lithuania signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 16 September 2005 and would information on plans for its ratification.

The Republic of Lithuania has opted for the incorporation of international treaties into domestic law. Therefore, prior to becoming a party to a particular international treaty, the government institutions of the Republic of Lithuania review domestic law and adjust it to the international obligations. Taking into account this practice, there are no obstacles for the fulfilment of the international obligations of the Republic of Lithuania arising from the 12 ratified counter-terrorism conventions.

The Republic of Lithuania signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 16 September 2005. The national ratification procedure is currently underway.

2. Implementation of Resolution 1624 (2005)

Paragraph 1

2.1 What measures does Lithuania have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

In order to prohibit by law the incitement to commit terrorist acts, the Parliament of the Republic of Lithuania passed a law on 26 November 2004, whereby a new article was added to the Criminal Code of the Republic of Lithuania (*Official Gazette*, 2004, No. 171-6318). Article 250 criminalises encouragement or incitement to commit a terrorist act or other crimes related to terrorism through public statements made in speech, writing or in public information media. This article also criminalises acts that scorn victims of terrorism.

2.2 What measures does Lithuania take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

According to the Law on the Legal Status of Aliens, the identity of any non-EU citizen travelling to Lithuania is checked by the State Security Department (SSD) as to whether the person was/is involved in terrorism-related activities. If such information is confirmed, SSD informs the Migration Department of the Republic of Lithuania, and a Lithuanian visa is not granted to the person.

The same procedure is applied if the person has requested refugee status. If information on terrorism-related activities is confirmed, refugee status will not be granted and certain legal procedures will be initiated against the person (criminal prosecution, extradition, deportation, etc.).

If any person already living in Lithuania is suspected of incitement of terrorism, he or she will be prosecuted according to Criminal Law.

Paragraph 2

2.3 How does Lithuania co-operate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

The State Border Guard Service co-operates closely with the state border divisions of Estonia, Latvia and Poland and organises forgery detection courses at various levels for both the border guards and the officers of consular and migration institutions, officers from the centre issuing personal documents, as well as carriers (airlines), etc. The equipment for checking and examining documents (stereomicroscopes, video spectral comporators, etc.) is regularly upgraded.

Paragraph 3

2.4 What international efforts is Lithuania participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilisations in an effort to prevent the indiscriminate targeting of different religions and cultures?

In order to enhance dialogue and broaden understanding among civilisations in an effort to prevent the indiscriminate targeting of different religions and cultures, Lithuania takes an active part in the activities of both regional and global institutions. Lithuania is a party to many of the most important international and regional human rights mechanisms that support the promotion of tolerance. As a member of the United Nations, Lithuania provides information on the implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination and welcomes the visits of UN officials or commissions, as well as their remarks and recommendations. Lithuania welcomes the initiative of the Alliance of Civilisations, suggested by Spain and co-

sponsored by Turkey, meant to foster respect and dialogue between Islamic and Western societies.

Lithuania actively co-operates with all the regional institutions involved in human rights protection, as well as with the European Commission against Racism and Intolerance (ECRI). Experts of the commission visited Lithuania several times before the third ECRI expert report on Lithuania this February. The traditional conferences of the Organisation for Security and Co-operation in Europe are among the most important events that provide an opportunity to discuss various forms of intolerance and its manifestations, as well as to share experiences of various countries in the area of tolerance building. Lithuania has always taken an active part in both the above-mentioned conferences and in other meetings and seminars organised by the OSCE to discuss the fight against intolerance and its manifestations.

One of the first international events of Lithuania for 2001 – the year of the dialogue between civilisations announced by the UN – was an international conference "Dialogue between Civilisations" organised in Vilnius on 24-26 April of the same year and patronised by President of the Republic of Lithuania Valdas Adamkus, President of the Republic of Poland Aleksander Kwaśniewski and Director-General of UNESCO Koïchiro Matsuura. The conference participants – political leaders, scientists and artists from around the world – shared their views and the experiences accumulated by various countries in nurturing tolerance and solidarity and in developing co-operation between nations. The conference examined the topics of "Mutual learning and interrelations", "Globalisation and cultural pluralism", "Diversity of identities and shared values", "Trade, science and cultural Exchanges", "Otherness" and "The concept of civilisations in the 21st century". The Vilnius declaration was passed at the end of the conference.

With regard to the OSCE traditions, Lithuania organised an international round-table discussion "Relations between Nations: From Tolerance to Active Support – Continuing the Spirit of OSCE Conference" in April 2006. The event participants – representatives of Belarus, Ukraine, Russia and Moldova, experts from Caucasian countries, the Council of Europe, the OSCE, representatives of non-governmental organisations from neighbouring countries, the Minister of Civil Integration of Georgia, experts from the U.S.-Israeli Stephen Roth Institute for the Study of Contemporary Anti-Semitism and Racism – discussed the building of the culture of tolerance, problems related to the manifestations of hatred among nations, and the implementation of OSCE recommendations.

In 2005, Lithuania took part in an international project of cultural co-operation "Bridges of Tales", which was organised by UNESCO. Six countries (Armenia, Azerbaijan, Estonia, Georgia, Latvia, and Lithuania) participated in the project, which aimed to encourage South Caucasian countries to implement joint projects in the area of culture and to develop closer mutual and regional co-operation. In implementing the project, Armenian, Azeri and Georgian fairy tales were published in Latvian and Estonian languages, as well as Estonian, Latvian and Lithuanian fairy tales in Armenian, Azeri and Georgian languages. The publication of fairy tales sought to encourage children to take interest in the folklore of the little-known faraway cultures, to stimulate creative imagination and nurture tolerance.

Cinema, arts, and culture days are regularly organised in the capital and in other cities to present individual countries or cultures. Local governments have developed a tradition of establishing friendships with the cities of other countries, which manifests itself through festivals or events for the presentation of these cities.

2.5 What steps is Lithuania taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

In the Republic of Lithuania, terrorist acts and incitement to commit such acts are considered to be a punishable crime. Given that terrorist acts or their incitement have not actually been encountered in Lithuania, the main measures (apart from the criminalisation of these acts) that Lithuania implements in this area are related to terrorism prevention – the promotion of tolerance towards forbearance for different religions and cultures.

In order to implement the goal of the Programme of the Government of the Republic of Lithuania for 2001-2004 to integrate ethnic minorities into the Lithuanian society, the National Programme for the Integration of Ethnic Minorities into the Lithuanian Society in 2005-2010 was approved by the Government of the Republic of Lithuania by Resolution No. 703 of 8 June 2004. This programme seeks to form and implement the national policy of harmonious ethnic relations, as well as help ethnic minorities integrate into the Lithuanian society, nurture tolerance in the society and prevent ethnic hatred, discrimination and exclusion.

Paragraph 4

2.6 What is Lithuania doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of Resolution 1624 (2001) comply with all of its obligations under international law, in particular, international human rights law, refugee law, and humanitarian law?

The activities of all the institutions of the Republic of Lithuania are based on the principle of the rule of law. The legal acts prepared by state institutions must conform to the Constitution of the Republic of Lithuania and other effective laws. Part 3 of Article 138 of the Constitution of the Republic of Lithuania establishes that international treaties ratified by the Seimas of the Republic of Lithuania constitute an integral part of the legal system of Lithuania.

Furthermore, Part 2 of Article 11 of the Law on International Treaties of the Republic of Lithuania (*Official Gazette*, 1999, No. 60-1948) states that the provisions of an international treaty shall prevail if the ratified international treaty sets different norms than the laws of the Republic of Lithuania.

Lithuania has ratified or joined all the most important international instruments in the area of human rights protection, refugee rights safeguards, and humanitarian law. Therefore, in preparing legal acts, state institutions follow both the general principles (human rights protection, non-discrimination, equal opportunities) and the provisions and obligations affirmed by international treaties. The drafting of legal acts also takes into account the remarks and recommendations of international institutions in relation to the safeguarding of one or other right.